

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JEFFREY LYNN FRANKLIN,

Petitioner,

v.

JERRY HOWELL, et al.

Respondents.

Case No. 2:20-cv-00075-KJD-EJY

**ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING ACTION**

JERRY HOWELL, et al.

Respondents.

This action is a *pro se* petition for a writ of habeas corpus by Jeffrey Lynn Franklin, a prisoner at Nevada's Three Lakes Valley Conservation Camp. Franklin filed this action on January 10, 2020, by filing an Application to Proceed *in Forma* *meritis* (ECF No. 1) and a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 224 (ECF No. 1-1).

The financial information provided with Franklin's Application to Proceed *in Forma Pauperis* indicates that he is unable to pay the filing fee for this action. The Court will, therefore, grant the application and will not require Franklin to pay the filing fee for this action.

The Court has examined Franklin's habeas petition, under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. It plainly appears that Franklin's petition must be dismissed, as it is successive, and Franklin has not obtained from the court of appeals the permission required to file such a successive petition.

Franklin's petition in this case challenges his September 8, 2006, conviction and sentence in Case No. C215549 in Nevada's Eighth Judicial District Court. See Petition for Writ of Habeas Corpus, p. 2. Franklin has, in this Court, repeatedly challenged that

1 same state-court conviction; the Court takes judicial notice of the proceedings in this
2 Court in Case No. 3:10-cv-00020-HDM-VPC, Case No. 3:13-cv-00714-MMD-WGC,
3 Case No. 3:15-cv-00308-LRH-VPC, and Case No. 2:18-cv-00444-JAD-NJK.

4 In Case No. 3:10-cv-00020-HDM-VPC, as in this case, Franklin challenged his
5 conviction in Case No. C215549 in the Eighth Judicial District Court. See Petition for
6 Writ of Habeas Corpus, ECF No. 4 in Case No. 3:10-cv-00020-HDM-VPC, p. 2. The
7 Court denied Franklin's petition on its merits, and denied Franklin a certificate of
8 appealability. See Order, ECF No. 25 in Case No. 3:10-cv-00020-HDM-VPC. Judgment
9 was entered accordingly. See Judgment, ECF No. 26 in Case No. 3:10-cv-00020-HDM-
10 VPC. On May 23, 2013, the Ninth Circuit Court of Appeals denied Franklin a certificate
11 of appealability. See Order of the Court of Appeals, ECF No. 30 in Case No. 3:10-cv-
12 00020-HDM-VPC.

13 Subsequently, Franklin initiated three more habeas actions (before the instant
14 action) in this Court challenging the same state-court conviction and sentence – Case
15 No. 3:13-cv-00714-MMD-WGC, Case No. 3:15-cv-00308-LRH-VPC, and Case No.
16 2:18-cv-00444-JAD-NJK – and each of those cases was dismissed because it was
17 successive and Franklin made no showing that he had obtained the necessary
18 permission from the Ninth Circuit Court of Appeals to file such a successive habeas
19 action. See ECF Nos. 3 and 4 in Case No. 3:13-cv-00714-MMD-WGC; ECF Nos. 3 and
20 6 in Case No. 3:15-cv-00308-LRH-VPC; ECF Nos. 15 and 16 in Case No. 2:18-cv-
21 00444-JAD-NJK.

22 A successive habeas petition may not be filed in this Court unless the petitioner
23 has obtained permission from the Ninth Circuit Court of Appeals. See 28 U.S.C.
24 § 2244(b)(3)(A) ("Before a second or successive application permitted by this section is
25 filed in the district court, the applicant shall move in the appropriate court of appeals for
26 an order authorizing the district court to consider the application."). Franklin has made
27 no allegation or showing that he has obtained such permission from the court of
28 appeals. Therefore, this action will be dismissed.

IT IS THEREFORE ORDERED that the Petitioner's Application to Proceed *in Forma Pauperis* (ECF No. 1) is **GRANTED**. The petitioner is not required to pay the filing fee for this action.

IT IS FURTHER ORDERED that the Clerk of the Court shall separately file the Petition for Writ of Habeas Corpus, now found at ECF No. 1-1.

IT IS FURTHER ORDERED that this action is **DISMISSED**.

IT IS FURTHER ORDERED that Petitioner is denied a certificate of appealability, because reasonable jurists would not find this order to be debatable.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to enter judgment accordingly and close this case.

DATED THIS 13 day of January, 2020.

KENT J. DAWSON,
UNITED STATES DISTRICT JUDGE